

*IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA BENCH "SMC" KOLKATA*

Before **Shri SANJAY GARG, Judicial Member**

आयकर अपील सं.य/ ITA No.594-595/Kol/2020 Assessment Years:2016-17 & 2017-18

NCDC Staff Co-operative Credit Society, C/o Subash Agarwal & Associates, Advocates Siddha Gibson, 1,Gibson Lane, Suite 213, 2 nd floor, Kolkata-700069 [PAN No.AACAN 2132 R]	<u>बनाम /</u> V/s.	Income Tax Officer, Ward-35(2), Aayakar Bhawan, Poorba 110, Shantipally, Kolkata- 107
अपीलार्थी /Appellant	..	प्रत्यर्थी /Respondent

Hearing through video Conferencing

आवेदक की ओर से/By Assessee	Shri Avjit Dey, Advocate
राजस्व की ओर से/By Revenue	Shri Jayanta Khanra, JCIT-SR-DR
सुनवाई की तारीख/Date of Hearing	08-02-2021
घोषणा की तारीख/Date of Pronouncement	08-02-2021

आदेश /O R D E R

The present appeals have been preferred by the assessee against the separate order dated 06.08.2020 & 14.09.2020 respectively of the Commissioner of Income-tax (Appeals)-10, Kolkata [hereinafter referred to as 'CIT(A)'].

2. The appeal is barred by limitation period of 33 days in ITA No.594/Kol/2020 whereas in ITA No.595/Kol/2020 the same is barred by limitation period of 12 days. The assessee has filed separate applications for condonation delay. Considering the submissions made in the applications as well as the shortness of the delay, the delay in

filing these appeals is hereby condoned. Cases are now taken up for adjudication on merits.

3. On merits, the Ld. counsel for the assessee has submitted that the sole issue raised by the assessee in both the appeals is as to whether the deduction out of salary of the employees is to be treated as income of the assessee or not. However, the Ld. DR has brought my attention to the assessment order to submit that no such plea was raised by the assessee before the Assessing Officer. That before the Assessing Officer it was submitted that the amount in question was out of miscellaneous receipts earned from the non-members by the assessee-society. The Ld. counsel for the assessee at this stage has submitted that certain inadvertent mistake has happened while making the submissions before the Assessing Officer. However, the factual position was narrated before the Ld. CIT(A), but, the Ld. CIT(A) has failed to consider the submissions of the assessee. The Ld. counsel for the assessee has submitted that the matter be remitted to the Assessing Officer for verification of the accounts to get the true and correct factual position in this respect. The Ld. DR has not objected to the same. Accordingly, matter in both the appeals is restored to the file of the Assessing Officer. The assessee will demonstrate before the Assessing Officer the nature of the receipts in question and the Assessing Officer after determining the nature of receipts will decide the issue in accordance with law. Needless to say that the Assessing Officer will give adequate opportunity of hearing to the assessee.

With the above observation, both the assessee's appeals are treated as allowed for statistical purposes.

Order dictated and pronounced in the open court immediately on completion of hearing on Monday, 8th February, 2021.

Sd/-
(Sanjay Garg)
Judicial Member

Kolkata,
Dkp/Sr.PS

दिनांक:- 08/02/2021 कोलकाता

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. आवेदक/Assessee-NCDC Staff Co-Op. Credit Society, C/o Subash Agarwal & Associates, Advocates Siddha Gibson, 1, Gibson Lane, Suite 213, 2nd Floor, Kolkata-69
2. राजस्व/Revenue-ITO Wd-35(2) Aayakar Bhawan,Poorba 110, Shantipally, Kolkata-107
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त- अपील / CIT (A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण कोलकाता / DR, ITAT, Kolkata
6. गार्ड फाइल / Guard file.

/True Copy/

By order/आदेश से,

सहायक पंजीकार
आयकर अपीलीय अधिकरण,
कोलकाता ।